

**INFORMATION AND INSTRUCTIONS
FOR
PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 USC §2254 (BY PERSONS IN STATE CUSTODY)**

- 1) The accompanying form is for the filing of a petition for habeas corpus relief. For your petition to be considered by the court, it must be **typewritten or legibly handwritten**. All questions must be answered concisely in the appropriate spaces on the form. **The petition must have an original signature** and include a declaration under penalty of perjury. You are cautioned that any false statement of material fact may serve as basis for prosecution and conviction for perjury. Therefore, you should exercise care to make sure that all answers are true, correct and complete.
- 2) Extra pages are not permitted, except that up to two additional pages (on 8½ x 11 inch paper) may be attached if necessary to complete your answers to question 16. A copy of an appellate court opinion or order specifically concerning your conviction may also be attached. Citation of legal authority is not necessary and **no briefs or argument are to be submitted unless specifically requested by an order of the court**.
- 3) In your petition, you should raise all available grounds for relief. If you fail to do so, you may be barred from presenting additional grounds at a later date.
- 4) The following list of the most frequently raised grounds for relief in post-conviction proceedings is furnished for your information only. This list is not complete and you may raise any other grounds for relief you may have.
 - a) denial of effective assistance of counsel
 - b) denial of right of appeal
 - c) conviction obtained by guilty plea which was unlawfully induced or not made voluntarily with understanding of the nature of the charge or the consequences of the plea
 - d) conviction obtained by use of coerced confession
 - e) conviction obtained by use of evidence obtained pursuant to an unlawful search and seizure
 - f) conviction obtained by use of evidence obtained pursuant to an unlawful arrest

- g) conviction obtained by a violation of the privilege against self-incrimination
 - h) conviction obtained by the unconstitutional failure of the prosecution to disclose evidence favorable to the defendant
 - i) conviction obtained by a violation of the protection against double jeopardy
 - j) conviction obtained by the action of a grand or petit jury which was unconstitutionally selected and impaneled
 - k) conviction was obtained by the knowing use of perjured testimony
 - l) denial of compulsory process to obtain witnesses favorable to the defendant
 - m) sentence imposed is cruel and unusual punishment
 - n) conviction obtained by the use of evidence obtained pursuant to an unlawful lineup or identification procedure
 - o) denial of a speedy trial
 - p) conviction was obtained as a result of a plea of guilty or trial while the defendant was mentally incompetent
- 5) On a single petition you may challenge the judgments of only one court. If you seek to challenge several judgments entered by different courts, either in the same state or in different states, you must file separate petitions as to each court.
- 6) You are required to exhaust available state judicial remedies on all grounds before presenting them to the federal court.
- 7) When you have completed your petition, mail the original and two copies together with the required filing fee of \$5.00 to:
- Clerk, U.S. District Court
District of Wyoming
2120 Capitol Avenue, 2nd Floor
Cheyenne, WY 82001
- 8) If you cannot afford to pay the fee, you may request permission to proceed *in forma pauperis* by filling out a motion for leave to proceed *in forma pauperis*

regarding your inability to pay the filing fee. If you file the motion, the business office of the institution at which you are incarcerated will be requested by the court to complete a financial certificate for the six-month period immediately preceding the filing of your complaint. If your prison account exceeds \$5.00, you will be required to pay the filing fee.

- 9) You must furnish an original and one copy of all motions, pleadings or other documents (except the original petition which requires an original and two copies) submitted for filing and consideration. In addition, you must furnish the respondents or their attorney with a copy of all documents submitted to the court. Each original document (except the petition) must include a certificate of service that states the date a copy of the document was mailed to the respondents or their attorney and the address to which it was mailed. Any pleading or other document received which fails to include a certificate of service may be stricken by the court.

The following is an example of a certificate of service:

I hereby certify that a copy of the foregoing [insert name of pleading or document] was mailed to [insert name of opposing party or party's attorney] at [insert address] on [insert date you mailed the document].

Petitioner's signature

- 10) The United States Magistrate Judge, the Clerk of Court and deputy clerks are officers of the court and are prohibited from giving legal advice. Questions of this nature should be directed to an attorney.